



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.11.2017

CORAM :

WEB COPY

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.M.A.(MD)No.929 of 2016
and
C.M.P.(md).No.8428 of 2016

National Insurance Company Limited,
Represented by its Branch Manager,
Divisional Office, Post Box No.434,
St.Joseph's press Building, Vazhathacaud,
Trivandrum-4, Kerala State. ... Appellant/6th Respondent
Vs.

1.T.Rani Selvam
2.Minor S.Aashika
(Minor 2nd respondent is represented
by her mother and guardian
1st respondent herein) ... Respondents 1&2/Petitioners
3.C.Rusal Raj
4.C.Resalian
5.The New India Assurance Company Limited,
Represented by its Branch Manager,
Officer Opposite to Anna Stadium, Balamore Road,
Nagercoil, Kanyakumari District.
6.J.Vincent
7.Kerala State Road Transport Corporation,
Represented by the Managing Director,
Office at Trivandram, Kerala State.
8.K.Moni
9.M.Mary ... Respondents 3 to 9/Respondents 1 to 9

Prayer: Appeal filed under Section 173 of Motor Vehicles Act, 1988,
to set aside the order and decree dated 14.10.2006 made in
M.A.C.O.P.No.96 of 2001, on the file of the Motor Accident Claims
Tribunal, Chief Judicial Magistrate Court, Nagercoil.

For Appellant : Mrs.P.Malini
For Respondents : Mr.M.S.Suresh Kumar for R5
Mr.S.Srinivasa Raghavan for R7
Mr.S.C.Herold Singh for R8 & R9
No Appearance for R1, R2, R3, R4
and R6



JUDGMENT

Heard the learned counsel on either side.

2.The Insurance company has filed this appeal questioning the impugned award on the ground of negligence as well as quantum.

3.The accident took place on 30.05.2001. The deceased was travelling in a lorry insured with the fifth respondent herein. When it was attempted to overtake an auto, it got involved in a head on collision with a bus insured with the appellant herein.

4.The Tribunal after perusing the material on record chose to apportion liability equally on both the bus driver as well the lorry driver. Therefore, the appellant Insurance company and the fifth respondent herein were directed to bear liability in equal shares. The award is for a sum of Rs.4,92,000/-. Liability of the appellant is only for a sum of Rs.2,46,000/-. The Tribunal correctly apportioned liability and also quantified the compensation amount. There is no reason to interfere with the same.

5.The award dated 14.10.2006 made in M.A.C.O.P.No.96 of 2001, on the file of the Motor Accident Claims Tribunal, Chief Judicial Magistrate Court, Nagercoil is confirmed.

6.The appellant and the fifth respondent is directed to deposit the compensation amount of Rs.2,46,000/- each with interest at the rate of 7.5% per annum with costs, from the date of petition till the date of realization, within a period of eight weeks from the date of receipt of a copy of this order, less the amount already deposited, if any. On such deposit, the claimants are entitled to withdraw the same, as apportioned by the Tribunal, less the amount already withdrawn by them, if any, by filing proper application before the Tribunal. The share of the minor claimant No.2 shall be deposited in any one of the Nationalised Bank till attainment of majority. The natural guardian, the first respondent is permitted to withdraw the interest therefrom once in three months directly from the Bank.

7.This Civil Miscellaneous Appeal stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(W)

/True Copy/

Sub-Assistant Registrar



To

1. THE CHIEF JUDICIAL MAGISTRATE JUDGE,
THE MOTOR ACCIDENT CLAIMS TRIBUNAL,
NAGERCOIL.

2. T.RANISELVAM, W/O. SELVARAJ (LATE),
4-11-III THOTTAMVILAI VEEDU, MAAJALAMOODU POST
VILAVANGEODU TALUK, KANAYAKUMARI DISTRICT, TAMIL NADU.

3. MINOR S.AASHIKA,
C/O.T.RANISELVAM, W/O.LATE.SELVARAJ,
4-11-III THOTTAMVILAI VEEDU,
MAAJALAMOODU POST, VILAVANGEODU TALUK,
KANYAKUMARI DISTRICT, TAMIL NADU.

4. C.RUSAL RAJ, S/O.CHELLAPPAN
PELAVARTHALAVILAI VEEDU, KADAYAL, KALIYAL POST,
VILAVANGCODU TALUKK., KANYAKUMARI DISTRICT
TAMIL NADU.

5. C.RESALIAN, S/O.CHELLIAN
32/12C, POTTAVILAI, PUTHU VEEDU, MARTHANDAM,
VILAVANGCODE TALUK., KANYAKUMARI DISTRICT.

6. J.VINEENT, S/O.JOSEPH,
SEERA VEEDU, NEDUPPUZHA, TRICHUR, KERALA STATE.

COPY TO:- .The Record Keeper,
Vernacular Records Section,
Madurai Bench of Madras High Court, Madurai.

+One cc to M/S.P.Malini, Advocate, SR.No.90180
+One c to Mr.S.C.Herold Singh, Advocate, SR.No.89577
+One cc to Mr.S.Srinivasa Raghavan, Advocate, SR.No.90168

tsg
RL/11C/3P/SKN/RSK/SAR4/21/12/2017

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